

AMENDMENTS TO LB 164

Introduced by Revenue.

1 1. Strike original sections 6, 10, and 11 and insert the
2 following new sections:

3 Sec. 6. Section 77-5725, Revised Statutes Cumulative
4 Supplement, 2008, is amended to read:

5 77-5725 (1) Applicants may qualify for benefits under the
6 Nebraska Advantage Act in one of six tiers:

7 (a) Tier 1, investment in qualified property of at least
8 one million dollars and the hiring of at least ten new employees.
9 There shall be no new project applications for benefits under this
10 tier filed ~~on or~~ after ~~January 1, 2011,~~ December 31, 2015, without
11 further authorization of the Legislature. All complete project
12 applications filed on or before January 1, 2011, December 31,
13 2015, shall be considered by the Tax Commissioner and approved if
14 the project and taxpayer qualify for benefits. Agreements may be
15 executed with regard to completed project applications filed on or
16 before January 1, 2011. December 31, 2015. All project agreements
17 pending, approved, or entered into before such date shall continue
18 in full force and effect;

19 (b) Tier 2, investment in qualified property of at least
20 three million dollars and the hiring of at least thirty new
21 employees;

22 (c) Tier 3, the hiring of at least thirty new employees.
23 There shall be no new project applications for benefits under this

1 tier filed ~~on or~~ after ~~January 1, 2011,~~ December 31, 2015, without
2 further authorization of the Legislature. All complete project
3 applications filed on or before January 1, 2011, December 31,
4 2015, shall be considered by the Tax Commissioner and approved if
5 the project and taxpayer qualify for benefits. Agreements may be
6 executed with regard to completed project applications filed on or
7 before January 1, 2011, December 31, 2015. All project agreements
8 pending, approved, or entered into before such date shall continue
9 in full force and effect;

10 (d) Tier 4, investment in qualified property of at least
11 ten million dollars and the hiring of at least one hundred new
12 employees;

13 (e) Tier 5, investment in qualified property of at least
14 thirty million dollars. Failure to maintain an average number of
15 equivalent employees as defined in section 77-5727 greater than or
16 equal to the number of equivalent employees in the base year shall
17 result in a partial recapture of benefits; and

18 (f) Tier 6, investment in qualified property of at least
19 ten million dollars and the hiring of at least seventy-five new
20 employees or the investment in qualified property of at least
21 one hundred million dollars and the hiring of at least fifty new
22 employees. Agreements may be executed with regard to completed
23 project applications filed before January 1, 2016. All project
24 agreements pending, approved, or entered into before such date
25 shall continue in full force and effect.

26 (2) When the taxpayer has met the required levels of
27 employment and investment contained in the agreement for a tier 1,

1 tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be
2 entitled to the following incentives:

3 (a) A refund of all sales and use taxes for a tier 2,
4 tier 4, tier 5, or tier 6 project or a refund of one-half of all
5 sales and use taxes for a tier 1 project paid under the Local
6 Option Revenue Act, the Nebraska Revenue Act of 1967, and sections
7 13-319, 13-324, and 13-2813 from the date of the application
8 through the meeting of the required levels of employment and
9 investment for all purchases, including rentals, of:

10 (i) Qualified property used as a part of the project;

11 (ii) Property, excluding motor vehicles, based in this
12 state and used in both this state and another state in connection
13 with the project except when any such property is to be used for
14 fundraising for or for the transportation of an elected official;

15 (iii) Tangible personal property by the owner of the
16 improvement to real estate that is incorporated into real estate as
17 a part of a project; and

18 (iv) Tangible personal property by a contractor or
19 repairperson after appointment as a purchasing agent of the owner
20 of the improvement to real estate. The refund shall be based on
21 fifty percent of the contract price, excluding any land, as the
22 cost of materials subject to the sales and use tax; and

23 (b) A refund of all sales and use taxes for a tier 2,
24 tier 4, tier 5, or tier 6 project or a refund of one-half of all
25 sales and use taxes for a tier 1 project paid under the Local
26 Option Revenue Act, the Nebraska Revenue Act of 1967, and sections
27 13-319, 13-324, and 13-2813 on the types of purchases, including

1 rentals, listed in subdivision (a) of this subsection for such
2 taxes paid during each year of the entitlement period in which
3 the taxpayer is at or above the required levels of employment and
4 investment.

5 (3) Any taxpayer who qualifies for a tier 1, tier 2,
6 tier 3, or tier 4 project shall be entitled to a credit equal to
7 three percent times the average wage of new employees times the
8 number of new employees if the average wage of the new employees
9 equals at least sixty percent of the Nebraska average annual wage
10 for the year of application. The credit shall equal four percent
11 times the average wage of new employees times the number of new
12 employees if the average wage of the new employees equals at least
13 seventy-five percent of the Nebraska average annual wage for the
14 year of application. The credit shall equal five percent times the
15 average wage of new employees times the number of new employees
16 if the average wage of the new employees equals at least one
17 hundred percent of the Nebraska average annual wage for the year of
18 application. The credit shall equal six percent times the average
19 wage of new employees times the number of new employees if the
20 average wage of the new employees equals at least one hundred
21 twenty-five percent of the Nebraska average annual wage for the
22 year of application. For computation of such credit:

23 (a) Average annual wage means the total compensation paid
24 to employees during the year at the project who are not base-year
25 employees and who are paid wages equal to at least sixty percent
26 of the Nebraska average weekly wage for the year of application,
27 excluding any compensation in excess of one million dollars paid

1 to any one employee during the year, divided by the number of
2 equivalent employees making up such total compensation;

3 (b) Average wage of new employees means the average
4 annual wage paid to employees during the year at the project who
5 are not base-year employees and who are paid wages equal to at
6 least sixty percent of the Nebraska average weekly wage for the
7 year of application, excluding any compensation in excess of one
8 million dollars paid to any one employee during the year; and

9 (c) Nebraska average annual wage means the Nebraska
10 average weekly wage times fifty-two.

11 (4) Any taxpayer who qualifies for a tier 6 project shall
12 be entitled to a credit equal to ten percent times the total
13 compensation paid to all employees, other than base-year employees,
14 excluding any compensation in excess of one million dollars paid to
15 any one employee during the year, employed at the project.

16 (5) Any taxpayer who has met the required levels of
17 employment and investment for a tier 2 or tier 4 project shall
18 receive a credit equal to ten percent of the investment made in
19 qualified property at the project. Any taxpayer who has met the
20 required levels of investment and employment for a tier 1 project
21 shall receive a credit equal to three percent of the investment
22 made in qualified property at the project. Any taxpayer who has
23 met the required levels of investment and employment for a tier
24 6 project shall receive a credit equal to fifteen percent of the
25 investment made in qualified property at the project.

26 (6) The credits prescribed in subsections (3), (4), and
27 (5) of this section shall be allowable for compensation paid and

1 investments made during each year of the entitlement period that
2 the taxpayer is at or above the required levels of employment and
3 investment.

4 (7) The credit prescribed in subsection (5) of this
5 section shall also be allowable during the first year of the
6 entitlement period for investment in qualified property at the
7 project after the date of the application and before the required
8 levels of employment and investment were met.

9 (8)(a) A taxpayer who has met the required levels of
10 employment and investment for a tier 4 or tier 6 project shall
11 receive the incentive provided in this subsection. A taxpayer who
12 has a project for an Internet web portal and who has met the
13 required level of investment for a tier 5 project shall receive the
14 incentive provided in this subsection for property in subdivision
15 (8)(b)(ii) of this section. Such investment and hiring of new
16 employees shall be considered a required level of investment and
17 employment for this subsection and for the recapture of benefits
18 under this subsection only.

19 (b) The following property used in connection with such
20 project or projects and acquired by the taxpayer, whether by
21 lease or purchase, after the date the application was filed shall
22 constitute separate classes of personal property:

23 (i) Turbine-powered aircraft, including turboprop,
24 turbojet, and turbofan aircraft, except when any such aircraft is
25 used for fundraising for or for the transportation of an elected
26 official;

27 (ii) Computer systems, made up of equipment that is

1 interconnected in order to enable the acquisition, storage,
2 manipulation, management, movement, control, display, transmission,
3 or reception of data involving computer software and hardware, used
4 for business information processing which require environmental
5 controls of temperature and power and which are capable of
6 simultaneously supporting more than one transaction and more than
7 one user. A computer system includes peripheral components which
8 require environmental controls of temperature and power connected
9 to such computer systems. Peripheral components shall be limited to
10 additional memory units, tape drives, disk drives, power supplies,
11 cooling units, data switches, and communication controllers;

12 (iii) Depreciable personal property used for a
13 distribution facility, including, but not limited to, storage
14 racks, conveyor mechanisms, forklifts, and other property used to
15 store or move products;

16 (iv) Personal property which is business equipment
17 located in a single project if the business equipment is involved
18 directly in the manufacture or processing of agricultural products;
19 and

20 (v) For a tier 6 project, any other personal property
21 located at the project.

22 (c) Such property shall be eligible for exemption from
23 the tax on personal property from the first January 1 following
24 the date of acquisition for property in subdivision (8)(b)(i)
25 of this section, or from the first January 1 following the end
26 of the year during which the required levels were exceeded for
27 property in subdivisions (8)(b)(ii), (iii), (iv), and (v) of this

1 section, through the ninth December 31 after the first year any
2 property included in subdivisions (8)(b)(ii), (iii), (iv), and (v)
3 of this section qualifies for the exemption. In order to receive
4 the property tax exemptions allowed by subdivision (8)(b) of this
5 section, the taxpayer shall annually file a claim for exemption
6 with the Tax Commissioner on or before May 1. The form and
7 supporting schedules shall be prescribed by the Tax Commissioner
8 and shall list all property for which exemption is being sought
9 under this section. A separate claim for exemption must be filed
10 for each project and each county in which property is claimed
11 to be exempt. A copy of this form must also be filed with the
12 county assessor in each county in which the applicant is requesting
13 exemption. The Tax Commissioner shall determine the eligibility
14 of each item listed for exemption and, on or before August 1,
15 certify such to the taxpayer and to the affected county assessor.
16 In determining the eligibility of items of personal property for
17 exemption, the Tax Commissioner is limited to the question of
18 whether the property claimed as exempt by the taxpayer falls
19 within the classes of property described in subdivision (8)(b) of
20 this section. The determination of whether a taxpayer is eligible
21 to obtain exemption for personal property based on meeting the
22 required levels of investment and employment is the responsibility
23 of the Tax Commissioner.

24 ~~(9)~~ (9)(a) The investment thresholds in this section for
25 a particular year of application shall be adjusted by the method
26 provided in this subsection.

27 (b) For tier 1, tier 2, tier 4, and tier 5, beginning

1 ~~Beginning~~ October 1, 2006, and each October 1 thereafter, the
2 average Producer Price Index for all commodities, published by
3 the United States Department of Labor, Bureau of Labor Statistics,
4 for the most recent ~~available period~~ twelve available periods
5 shall be divided by the Producer Price Index for the first
6 quarter of 2006 and the result multiplied by the applicable
7 investment threshold. The investment thresholds shall be adjusted
8 for cumulative inflation since 2006.

9 (c) For tier 6, beginning October 1, 2008, and each
10 October 1 thereafter, the average Producer Price Index for all
11 commodities, published by the United States Department of Labor,
12 Bureau of Labor Statistics, for the most recent twelve available
13 periods shall be divided by the Producer Price Index for the
14 first quarter of 2008 and the result multiplied by the applicable
15 investment threshold. The investment thresholds shall be adjusted
16 for cumulative inflation since 2008.

17 (d) If the resulting amount is not a multiple of one
18 million dollars, the amount shall be rounded to the next lowest one
19 million dollars.

20 (e) The investment thresholds established by this
21 subsection apply for purposes of project qualifications for all
22 applications filed on or after January 1 of the following year for
23 all years of the project. Adjustments do not apply to projects
24 after the year of application.

25 Sec. 10. Section 77-5806, Revised Statutes Cumulative
26 Supplement, 2008, is amended to read:

27 77-5806 The Nebraska Advantage Research and Development

1 Act shall be operative for all tax years beginning or deemed to
2 begin on or after January 1, 2006, under the Internal Revenue Code
3 of 1986, as amended. No business firm shall be allowed to first
4 claim the credit for any tax year beginning or deemed to begin ~~on~~
5 ~~or~~ after ~~January 1, 2011,~~ December 31, 2015, under the Internal
6 Revenue Code of 1986, as amended.

7 Sec. 11. Section 77-5905, Revised Statutes Cumulative
8 Supplement, 2008, is amended to read:

9 77-5905 (1) If the Department of Revenue determines
10 that an application meets the requirements of section 77-5904 and
11 that the investment or employment is eligible for the credit and
12 (a) the applicant is actively engaged in the operation of the
13 microbusiness or will be actively engaged in the operation upon its
14 establishment, (b) the majority of the assets of the microbusiness
15 are located in a distressed area or will be upon its establishment,
16 (c) the applicant will make new investment or employment in the
17 microbusiness, and (d) the new investment or employment will create
18 new income or jobs in the distressed area, the department shall
19 approve the application and authorize tentative tax credits to the
20 applicant within the limits set forth in this section and certify
21 the amount of tentative tax credits approved for the applicant.
22 Applications for tax credits shall be considered in the order in
23 which they are received.

24 (2) The department may approve applications up to the
25 adjusted limit for each calendar year beginning January 1, 2006,
26 through December 31, ~~2010-~~ 2015. After applications totaling the
27 adjusted limit have been approved for a calendar year, no further

1 applications shall be approved for that year. The adjusted limit
2 in a given year is two million dollars plus tentative tax credits
3 that were not granted by the end of the preceding year. Tax credits
4 shall not be allowed for a taxpayer receiving benefits under the
5 Employment and Investment Growth Act, the Nebraska Advantage Act,
6 or the Nebraska Advantage Rural Development Act.